APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,505	06/14/2001	Bipul Binit Sinha	oracle01.016	7778

25247 7590 02/28/2007 GORDON E NELSON PATENT ATTORNEY, PC 57 CENTRAL ST PO BOX 782 ROWLEY, MA 01969	**EXAMINER** LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
2161	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/28/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<table>
<tr><td rowspan="2">Office Action Summary</td><td>Application No.</td><td>Applicant(s)</td><td></td></tr>
<tr><td>09/881,505</td><td>SINHA ET AL.</td><td></td></tr>
<tr><td></td><td>Examiner</td><td>Art Unit</td><td></td></tr>
<tr><td></td><td>Etienne P LeRoux</td><td>2161</td><td></td></tr>
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 December 2006</u> .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>2-31</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>2-31</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>14 June 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

Claims Status

· Claims 2-31 are pending. Claim 1 has been cancelled. Claims 2-31 are rejected as detailed

below.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 11 is rejected under 35 U.S.C. 101 because the claimed recitation must include a result step that

has practical application in the real world.

Furthermore, the **claimed** (emphasis added) invention as a whole must be useful and accomplish a

practical application. That is, it must produce a "useful, concrete and tangible result." State Street, 149 F.3d at

1373-74, 47 USPQ2d at 1601-02. The purpose of this requirement is to limit patent protection to inventions

that possess a certain level of "real world" value, as opposed to subject matter that represents nothing more than

an idea or concept, or is simply a starting point for future investigation or research (Brenner v. Manson, 383

U.S. 519, 528-36, 148 USPQ 689, 693-96 (1966).

Claim 11 as claimed lacks "real world value" because there is no final result. Since there is no final

result, the claimed invention as a whole is not drawn to a practical application. The final limitation "using the

retained state to optimize the protocol" cannot be considered to have real world value because it is unclear what

is achieved as a result of optimizing the protocol. Furthermore, it is well-known in the art that "[t]he word

protocol is often used, sometimes confusingly, in reference to a multitude of standards affecting different

aspects of communication, such as file transfer, handshaking, and network transmissions."[1] The claimed

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[1] Microsoft Computer Dictionary, Fifth Edition

"optimized protocol" is such an example of confusion because the claim limitation "augmenting a message by

adding protocol state information" does not comply with the art accepted definition of protocol, i.e., a set of

rules or standards designed to enable computers to connect with one another and to exchange information with

as little error as possible.[2] However, even if "augmenting a message" can be considered as a communications

protocol, it lacks "real world value" because there is no useful result obtained subsequent to augmenting of the

message. Claim 11 lacks real world value because there is no useful, concrete and tangible result flowing from

(1) augmenting the message to add protocol state information, and (2) using the retained state to optimize the

protocol.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the

rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-31 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 5,335,343 (Lampson

et al), hereafter Lampson.

Claims 5, 9, 10, 11, 22, 26, 30 and 31:

Lampson discloses:

receiving an augmented one of the messages from the other component [Lampson, send read

message, step 81, item 81 sends a read vote to the coordinator, col 9, line 65] the other component

having augmented the message by adding protocol state information to the message [subordinate sends a

read-only message, col 9, lines 60-68], the protocol state information indicating a state of the other

component that is relevant to the protocol [subordinate sends a read-only message, col 9, lines 60-68],

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[2] Microsoft Computer Dictionary, Fifth Edition

retaining the state of the other component indicated in the augmented message [subordinate is known as read-only to the coordinator, col 10, lines 1-5]

using the retained state to optimize the protocol [subordinate does not need to be sent a commit or abort message, col 10, lines 1-5]

Claims 2, 6, 23 and 27:

Lampson discloses the protocol ensures that the results of the transaction are consistent in the components and in the step of receiving an augmented one of the messages, the protocol state information indicates whether the transaction will modify data in the other component [Figs 5 and 13, col 10, lines 7-25]

Claim 3, 7, 24 and 28:

Lampson discloses the protocol being optimized is a two-phase commit protocol, and in the step of using the retained state to optimize the protocol the first component sends a message of the two-phase commit protocol that aborts the transaction to an other component when the other component's retained state indicates that the transaction does not modify the data in the other component [Fig 12, col 9, line 66 – col 10, line 6]

Claim 4, 8, 25 and 29:

Lampson discloses the distributed system is a distributed database system and the components are database systems therein [Fig 1]

Claim 12:

Lampson discloses the data storage device contains code which, when executed by a processor performs the method of claim 11 [Fig 2, 16]

Claim 13:

Lampson discloses the data storage device contains code which, when executed by a processor, performs the method of claim 2 [Fig 2, 16]

Claim 14:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 3 [Fig 2, 16]

Claim 15:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 4 [Fig 2,16]

Claim 16:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 5 [Fig 2,16]

Claim 17:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 6 [Fig 2,16].

Claim 18:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 7 [Fig 2, 16].

Claim 19:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 8 [Fig 2, 16].

Claim 20:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 9 [Fig 2, 16].

Claim 21:

Lampson discloses the data storage device contains code which, when executed by a processor,

performs the method of claim 10 [Fig 2, 16].

Response to Arguments

Applicant's arguments filed 12/6/2006 have been carefully considered and found partially persuasive but are moot based on above new grounds of rejection.

However, applicant's response to the 35 USC 101 rejection in the previous Office action is not persuasive. Applicant states in pages 4-5 that the two-phase commit protocol may be used in any situation in which transactions are preformed in a distributed system. Examiner is not persuaded because (1) two-phase commit protocol is not claimed in claim 11 and (2) a two-phase commit protocol cannot be used in any situation in a distributed system because a two-phase commit protocol is particularly used when synchronizing information between a primary and a secondary database. The rejection under 35 USC 101 is maintained.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne P. LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached Monday through Friday, 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on (571) 272-4080. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Etienne LeRoux

2/23/2007

Etienne P LeRoux

primary examiner